

## **Adopted Rule Amendments to Chapter 376, Registration of Facilities**

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Please note that these are ADOPTED amendments, but they will not be in effect until 1/1/2016, at which time, the adopted rule sections will replace the rule sections of the same number in the current rules. [Please click this link](#) to view the current rules.

### **Introduction:**

The Texas Board of Occupational Therapy Examiners adopts amendments to §§376.1-376.10, concerning the registration of facilities.

The amendments clarify the existing rules in general and include changes related to the registration of occupational therapy facilities. The amendments include revisions clarifying that a change in ownership or type of ownership as described in §376.10, Change in Occupational Therapy Facility Ownership, requires that the former owner notify the Board in writing on a form prescribed by the Board within 30 days after the change in ownership, and that the new owner register the facility under new ownership. In addition, a change includes that if occupational therapy services will no longer be provided at a registered facility, the facility registration must be cancelled by submitting a form as prescribed by the Board within 30 days after the facility's registration expires and that to resume the provision of occupational therapy services at a future date, the facility registration may be restored by meeting the requirements in §376.8, Restoration of Registration. The amendment also adds that occupational therapy services may be provided at a registered facility upon online verification of current registration on the Board's website prior to receiving the paper registration certificate from the Board.

### **§376.1. Facility Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Occupational therapy facility--A physical site, such as a building, office, or portable facility, where the practice of occupational therapy takes place; also may be known as registered facility. The definition of an occupational therapy facility does not include a physical site such as a building, office, or portable facility if it meets all three conditions:

(A) It is not in the care, custody or control of the individual or company providing occupational therapy services therein; and

(B) Occupational therapy services are not provided on a predictable or regular basis at any one location; and

(C) Healthcare delivery is not the primary purpose, activity, or business of the site where the services are provided.

(2) Occupational therapist in charge--An occupational therapist who is designated on the application for registration and who has the authority and responsibility for the facility's compliance with the Act and Rules pertaining to the practice of occupational therapy in the facility.

**§376.2. Requirement for Practice Setting of Licensees.**

All licensees of this Act who practice in an occupational therapy facility can do so only if that facility is registered or exempt under this rule. A facility shall not be required to register under this section if such facility or any person providing health care services at the facility does not perform or hold itself or themselves out as performing or offering to perform occupational therapy as defined in the Act.

**§376.3. Requirements for Registration Application.**

(a) Each registration application must include:

- (1) name of the facility;
- (2) physical/street address of the facility;
- (3) mailing address, if different from the street address;
- (4) name of the owner;
- (5) type of ownership;
- (6) identification/contact information for the facility owner as follows:

(A) Sole proprietor:

- (i) name, home address, date of birth, social security number of the sole proprietor;
- (ii) federal employer identification number if applicable.

(B) Partnership:

- (i) names, home addresses, dates of birth, and social security numbers of the managing partners (for purposes of this subsection, managing partners are defined as the top four partners including the partner in charge of the facility);
- (ii) federal employer identification number.

(C) Corporation:

- (i) names, home addresses, dates of birth, and social security numbers of managing officers (for purposes of this subsection, managing officers are defined as the top four executive officers, including the corporate officer in charge of the facility operations);
- (ii) federal employer identification number.

(D) Governmental entity (federal, state, county, local):

- (i) name, home address, date of birth, social security number of the individual completing the application;

- (ii) federal employer identification number;
- (7) the name and license number of the occupational therapist in charge and his or her signature;
- (8) the names and license numbers of all occupational therapists and occupational therapy assistants who will practice in the facility;
- (9) the name, title, and signature of the owner, managing partner or officer, or person authorized to complete the form; and
- (10) the non-refundable application fee, as set by the Executive Council.

- (b) The Board requires a separate application and application fee for each facility registered.
- (c) All of the facilities owned by an individual, partnership, corporation or other entity will receive synchronized expiration dates. An additional occupational therapy facility registered six or more months before the first registered facility's expiration date will receive the same expiration date as the first registered facility.
- (d) A facility that has not been registered previously must complete the registration process prior to providing occupational therapy services. Occupational therapy services may be provided at the facility upon online verification of current registration on the Board's website prior to receiving the paper registration certificate from the Board. The Board will maintain a secure resource for verification of registration status and expiration date on its website.
- (e) The occupational therapy facility application is valid for one year after it is received by the Board.
- (f) The occupational therapy facility registration fee(s) will be waived in circumstances that are temporary in nature, such as a natural disaster or events for special populations, such as the Special Olympics.
- (g) Waiver from occupational therapy facility registration fees does not nullify any other sections as set forth in this chapter.

#### **§376.4. Requirements for Registered Facilities.**

- (a) Each registered facility must have a designated occupational therapist in charge. A registered facility is required to report the name and license number of the new occupational therapist in charge no later than 30 days after the change occurs.
- (b) A registered facility must display the registration certificate in a prominent location in the facility where it is available for inspection by the public. A registration certificate issued by the Board is the property of the Board and must be surrendered on demand by the Board.
- (c) A registered facility is subject to random inspection to verify compliance with the Act and Rules by authorized personnel of the Board at any reasonable time.
- (d) A registered facility must notify the Board within 30 days of any change to the facility name, physical/street address, or mailing address. In the event of a name or physical address change

or the loss or destruction of the registration certificate, the owner must obtain a new registration certificate by submitting a form as prescribed by the Board and a non-refundable fee as set by the Executive Council.

(e) A change in ownership or type of ownership as described in §376.10 of this chapter (relating to Change in Occupational Therapy Facility Ownership) requires that the former owner notify the Board in writing on a form prescribed by the Board within 30 days after the change in ownership, and that the new owner register the facility under new ownership.

(f) If occupational therapy services will no longer be provided at a registered facility, the facility registration must be cancelled by submitting a form as prescribed by the Board within 30 days after the facility's registration expires. To resume the provision of occupational therapy services at a future date, the facility registration may be restored by meeting the requirements in §376.8 of this chapter (relating to Restoration of Registration).

#### **§376.5. Exemptions to Registration.**

A facility licensed under Subtitle B, Title 4, Health and Safety Code, is exempt from this definition, i.e., hospitals, nursing homes, ambulatory surgical centers, birthing centers, abortion, continuing care, personal care, and special care facilities. Colleges, universities, schools, home health settings, and settings where Early Childhood Intervention (ECI) services take place are exempted from registration. These types of facilities are automatically exempt and are not required to obtain a formal exemption from the Board.

#### **§376.6. Renewal of Registration.**

(a) The owner of a registered facility must renew its registration annually. Licensees may not provide occupational therapy services in a facility if the registration has expired. The Board will maintain a secure resource for verification of registration status and expiration date on its website. Licensees and facility owners should verify a facility's registration and registration expiration date on the Board's website. The renewal process is not complete until the Board's website verification reflects that the registration has been renewed by displaying the new renewal date.

(b) Requirements to renew a facility registration are:

- (1) a renewal application signed by the owner, managing partner or officer, or a person authorized by the owner to complete the renewal;
- (2) a list of all occupational therapy practitioners working at the facility including license numbers;
- (3) the non-refundable renewal fee and any non-refundable late fees as set by the Executive Council that may be due; and
- (4) an occupational therapist in charge form.

(c) The annual renewal date of a facility registration is the last day of the month in which the registration was originally issued, or as synchronized with the first facility registered by an owner. The owner of occupational therapy facilities may request that the renewal date of the occupational therapy facilities be synchronized with the owner's physical therapy facilities in the same locations.

(d) The Board will notify the registered facility at least 30 days before the registration expiration date. The owner bears the responsibility for ensuring that the registration is renewed. Failure to receive a renewal notice from the Board does not exempt the requirement to pay the renewal fee in a timely manner.

(e) Late Renewal. Late fees will be assessed if all items required for renewal are not postmarked if submitted by mail or electronically time and date stamped if submitted online prior to the expiration date of the registration. Facility owners who do not submit all required items prior to the expiration date are subject to late fees as described below.

(1) If the facility registration has been expired for 90 days or less, the late fee is half of the renewal fee.

(2) If the facility registration has been expired for more than 90 days but less than one year, the late fee is equal to the renewal fee.

(3) If the facility registration has been expired for one year or more, the facility owner must restore the license as described in §376.8 of this chapter (relating to Restoration of Registration).

(f) An owner may not register a new facility in lieu of renewal of the owner's previously registered facility at the same location.

#### **§376.7. Failure To Register.**

Individuals or entities that fail to register an occupational therapy facility with the Board as required by the Act and Rules will be notified of their noncompliance with the Act and Rules and the disciplinary actions by this Board to which they are subject. Additionally, all licensees of this Act employed at the facility will be notified that they are in violation of the Act and Rules and thereby subject to disciplinary action.

#### **§376.8. Restoration of Registration.**

(a) When a facility's registration has been expired more than one year, or if the registration of a facility has been cancelled, the owner may restore the registration by submitting the following:

(1) the restoration application;

(2) the non-refundable restoration fee as set by the Executive Council; and

(3) the occupational therapist in charge form signed by the occupational therapist in charge.

(b) Restoration fees:

(1) If the owner cancelled the facility registration in writing, the restoration fee is the same as the renewal fee.

(2) If the owner did not cancel the registration in writing and the registration expired, the fee is twice the renewal fee.

(c) An owner may not register a new facility in lieu of restoration of the owner's previously registered facility in the same location.

**§376.9. Disciplinary Action.**

(a) The Board may assign disciplinary action to an individual or entity registering a facility under this Rule for violation of the Act or Rules. The disciplinary action may include: revocation or suspension of the registration; probation; penalty fees; or other appropriate disciplinary action.

(b) The processing of complaints against individuals or entities registering or applying for the registration of occupational therapy facilities under this Rule is accomplished in accordance with Chapter 374 of this title (relating to Complaints).

(c) A revocation or suspension of a registration affects all facilities registered by the same owner.

**§376.10. Change in Occupational Therapy Facility Ownership.**

(a) A registration cannot be transferred or sold to another person or owner. When a facility changes ownership, the new owner must register it as a new facility. The previous owner must request in writing that the registration of the original facility be cancelled within 30 days after the change in ownership. A change in ownership takes place when one of the following occurs:

- (1) a sole proprietor (individual) incorporates or changes to a partnership;
- (2) a partnership incorporates or changes to a sole proprietor;
- (3) a corporation dissolves and changes its status to a partnership or sole proprietor;
- (4) a sole proprietor (individual), partnership or corporation sells or transfers the ownership to another individual, partnership or corporation.

(b) If there is a change of managing partners in a partnership or managing officers in a corporation, the entity that registered the occupational therapy facility must send the Board written notification on a form prescribed by the Board within 30 days. For purposes of this subsection, managing partners are defined as the top four partners including, the partner in charge of the facility, and managing officers are defined as the top four executive officers, including the corporate officer in charge of occupational therapy facility operations. The written notification shall include the effective date of such change and the following information for the new managing partners or officers:

- (1) name and title;
- (2) home address;
- (3) date of birth; and
- (4) social security number.